

Message Text

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PAGE 01 SANTIA 03603 211634Z

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 CIAE-00 COME-00 DODE-00 DOTE-00

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FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC 8547

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EO 11652: NA

TAGS: EWWT, CI

SUBJ: DISCRIMINATORY SHIPPING PRACTICES

REF: SANTIAGO 1655

1. INTRODUCTION AND SUMMARY: EMBASSY IS PLEASED TO REPORT THAT DISCRIMINATORY MEASURES BEGUN LAST SEPTEMBER AGAINST US-FLAG SHIPPING ACCESS TO OUTBOUD CARGO, BOTH U.S.-DESTINED AND WAYPORT, APPEAR ON THE WAY TO BE LIFTED. THIS TELEGRAM SUMMARIZES INTERIM MEASURES SOON TO BE PROMULGATED BY GOC, IN ANTICIPATION OF FINAL LEGISLATION TO BE WORKED ON BY A COMMISSION OVER THE NEXT THREE MONTHS. DEFINITIVE TEXT OF INTERIM MEASURES TO BE FORWARDED BY SEPTTEL WHEN PROMULGATED.

2. DEPT IS AWARE OF DIFFICULTIES WHICH GOC NORMALLY EXPERIENCES, WITH REGARD TO THINKING THROUGH PRACTICAL IMPLICATIONS OF POLICY DECISIONS ONCE TAKEN, AND TO MAKING KNOWN AND ENFORCING COMPLIANCE BY ALL THOSE WHO WILL HAVE TO EXECUTE THE POLICY. HENCE, WE DO NOT RULE OUT, FOR THE IMMEDIATE FUTURE, ISOLATED INSTANCES OF DISCRIMINATION, OR OTHER INCONSISTENCIES BETWEEN POLICY AND PRACTICE, UNTIL EVERYONE AT LAST HAS HIS SIGNALS STRAIGHT.

WITH ABOVE CAVEAT, EMBASSY IS NOW PREPARED TO BELIEVE THAT

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PAGE 02 SANTIA 03603 211634Z

POLICY DECISION TAKEN AT HIGHEST LEVEL OF GOC TO END CARGO DIS-

CRIMINATION AGAINST US-FLAG SHIPPING IS BEING CARRIED OUT IN GOOD FAITH IN MANNER LIKELY TO PROVE ACCEPTABLE TO U.S. SHIPPING LINES AND BASICALLY CONSISTENT WITH USG POLICY GOALS. END INTRODUCTION AND SUMMARY.

3. GOC IS ISSUING NEW DECREE LAW (TEXT BY SEPTTEL) WHICH DESIGNED TO END DISCRIMINATORY SHIPPING PRACTICES INTRODUCED LAST SEPTEMBER, BY RETURNING TO FORMER PROCEDURE WHICH HAD BEEN SATISFACTORY TO CHILEANS AND AMERICANS ALIKE. REGULAR SHIPPERS WILL BE FREE TO SELECT WHICHEVER SHIP SUITS THEIR CONVENIENCE, WITHOUT NEED TO SEEK WAIVERS TO PERMIT INDIVIDUAL CARGOES TO BE CARRIED ON NON-CHILEAN FLAG SHIPS. SAME FREEDOM OF ACCESS WILL APPLY TO WAYPORT AS TO US-BOUND CARGOES, AT LEAST ACCORDING TO WHAT THE EMBASSY HAS BEEN TOLD OFFICIALLY BY THE MINISTRY OF TRANSPORT. (THE CENTRAL BANK, WHICH PRESUMABLY MUST NOT YET HAVE GOTTEN THE WORD, STILL BELIEVES THAT WAYPORT CARGO WILL BE UNDER A 100 PERCENT CHILEAN CARGO RESERVE.)

4. CHILEAN LEGAL REQUIREMENT THAT FIFTY PERCENT OF ALL CARGOES BE RESERVED FOR CHILEAN-FLAG SHIPS, WILL PERSIST. SINCE "REGULAR" SHIPPERS (TO BE DEFINED APPARENTLY ON BASIS OF VOLUME AND FREQUENCY) WILL BE FREE TO ELECT EITHER CHILEAN OR US-ENJW SHIPS, CENTRAL BANK WILL RETAIN RIGHT TO ALLOCATE "SPOT" CARGOES BY INFREQUENT OR SMALL SHIPPERS IN ORDER TO ENSURE THAT ANY POSSIBLE DEFICIENCIES IN CHILEAN QUOTA ARE MADE UP. SINCE CHILEAN-FLAG SHIPS HISTORICALLY HAVE CARRIED MORE OUTBOUND CARGO THAN FOREIGN-FLAG SHIPS, IT IS NOT EXPECTED THAT A PROBLEM IN MEETING THIS LEGAL REQUIREMENT WILL ARISE.

5. NEW DECREE LAW, WHICH HAS BEEN SENT TO THE PRESIDENT FOR SIGNATURE, WILL REPLACE ARTICLES 22 AND 27 OF LAW 12,041 WHICH WAS MODIFIED BY DECREE LAW 466 OF MAY 21, 1974. NEW ARTICLE 22 WILL CONFIRM THAT "50 PERCENT OF THE IMPORT AND EXPORT CARGO WILL BE RESERVED TO NATIONAL VESSELS." IN ORDER TO APPLY THIS PERCENTAGE, IMPORT AND EXPORT CARGOES WILL BE TAKEN SEPARATELY. ALL IMPORT CARGO CHARACTERIZED AS "HOMOGENEOUS BULK CARGO" WILL, HOWEVER, CONTINUE TO BE SUBJECT TO 100 PERCENT RESERVE BY CHILEAN VESSELS. THIS REQUIREMENTS, ACCORDING TO PRUDENTIAL REP (GORMAN) HAS BEEN ON THE BOOKS FOR A LONG TIME BUT HAS NOT SO FAR CREATED PROBLEMS FOR PRUDENTIAL. ABILITY OF GOC ARBITRARILY LIMITED OFFICIAL USE

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PAGE 03 SANTIAGO 03603 211634Z

TO REDEFINE "HOMOGENEOUS BULK CARGO" REPRESENTS, OF COURSE, A POTENTIAL SOURCE OF DIFFICULTY FOR THE FUTURE. MINISTRY OF TRANSPORT (OLIVIA) CONFIRMS THAT EXISTING SOUTHBOUND POOLING ARRANGEMENTS WILL NOT BE AFFECTED BY THESE IMPORT REQUIREMENTS.

6. IT SHOULD BE NOTED THAT THIS DECREE LAW IS ONLY A TEMPORARY SOLUTION, DESIGNED TO END DISCRIMINATORY SHIPPING PRACTICES. GOC HAS NAMED A COMMISSION WHICH HAS THREE MONTHS TO DRAFT A COMPLETE

NEW LAW WHICH WILL REPLACE LAW QWN041.

7. WE ARE DISCUSSING THESE DEVELOPMENTS WITH PRUDENTIAL REP, WHO IS ENCOURAGED. HE WANTS, HOWEVER, TO SEE SIGNED TEXT OF NEW DECREE LAW BEFORE COMMENTING TO HIS PRINCIPALS. GIVEN RECENT PAST EXPERIENCES, WE CONSIDER HIS REACTION TO BE A SOUND ONE.
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